IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 4978 of 1989

For Approval and Signature:

Hon'ble MR.JUSTICE M.S.SHAH

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

GUJARAT STATE ROAD TRANSPORT CORPORTION

Versus

GAURISHAKER A PANDYA

Appearance:

1. Special Civil Application No. 4978 of 1989

MR HARDIK C RAWAL for Petitioner No. 1

MR MH SHAIKH for Respondent No. 1

MR KV GADHIA for Respondent No. 1

CORAM : MR.JUSTICE M.S.SHAH

Date of decision: 28/11/2001

ORAL JUDGEMENT

The respondent is a conductor employed by the petitioner-Corporation. By order dated 18-2-1985, the respondent was transferred from Ambaji to Radhanpur depot

of the Corporation. The respondent challenged the same before the Industrial Tribunal, Ahmedabad by filing a Complaint (IT) No. 22 of 1985 in a pending Reference being Reference (IT) No. 667 of 1982. The complaint was filed on the ground that the respondent was a protected workman and during the pendency of the industrial dispute between the petitioner and its workman, the protected workman could not have been transferred. That challenge appealed to the Industrial Tribunal which set aside the transfer order dated 18-2-1985 by its impugned judgment and award dated 9-1-1989 (Annexure A) which is under challenge in this petition.

2. When the petition has reached hearing today it is brought to the notice of the Court that although this Court had granted ad-interim order dated 19-8-1989 directing status-quo regarding service condition of the respondent-workman to continue till further orders, since the Tribunal itself had granted interim relief in favour of the respondent-workman during pendency of the complaint, the respondent has continued to discharge his duties at Ambaji depot and that the respondent has continued to remain at Ambaji depot for all these years.

3. In view of the aforesaid facts, it appears to the Court that no useful purpose would be served by going into the legality of the impugned judgment and award of the Tribunal as interests of justice would be served if the petition is disposed of with liberty to the petitioner-Corporation to consider all the relevant facts and administrative exigencies afresh and to reserve liberty to the petitioner-Corporation to consider whether it is now necessary to transfer the respondent-workman from Ambaji. The Corporation will be at liberty to examine this question afresh on the basis of the administrative exigencies prevailing today without being deterred by the impugned award dated 9-1-1989 of the Tribunal.

4. Mr Vaishnav learned counsel for the respondent points out that the respondent - workman has only 4 to 5 years service left before superannuation. It will be open to the respondent to point out all such relevant facts before the authorities and the authorities shall duly consider all such relevant facts and administrative exigencies before taking any final decision whether to transfer the respondent - workman or not from Ambaji depot.

5. Subject to the aforesaid observations and liberty, the petition is disposed of. Rule is discharged

with no order as to costs.

(M.S. Shah,J)

zgs/-